

IN THE HIGH COURT OF JUDICATURE AT PATNA
CIVIL REVIEW No.79 of 2019

In
Civil Writ Jurisdiction Case No.7542 of 2017

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1. The State Of Bihar through the Chief Secretary, Government of Bihar, Patna
 2. The Principal Secretary Education Department, Govt. of Bihar, Patna
 3. The Principal Secretary Department of Personnel and Administrative Reform Department, Government of Bihar, Patna
 4. The Director Mass Education, Government of Bihar, Patna
 5. The District Education Officer Buxar
 6. The District Education Officer Bhojpur at Ara
 7. The District Education Officer Supaul

... .. Petitioner/s

Versus

1. Bharat Singh and Ors Son of Late Chandrika Singh R/o Village-Indarpur, P.O. Nihalpur, P.S.-Sikaraul, District-Buxar
2. Seema Mehta Wife of Sri Purushotam Kumar resident of Village- Dharahara, P.O.- Turiganj, P.S.- Krishnabrahm, District- Buxar.
3. Sita Devi Wife of Motilal Thakur resident of Village P.O.- Chhatanwar, P.S.- Krishnabrahm, District- Buxar.
4. Anju Pandey Wife of Ashwani Pandey R/o Village and P.O.-Sowa, P.S. Krishnabrahm, District-Buxar
5. Purushotam Kumar Singh Son of Late Raj Bahadur Singh resident of Village- Dharahara, P.O.- Turiganj, P.S.- Krishnabrahm, District- Buxar.
6. Ramesh Ojha Son of Sharadha Nand Ojha resident of Village and P.O.- Barka, Singhanpura, P.S.- Simari, District- Buxar.
7. Harikishun Yadav Son of Sri Jagdish Yadav resident of Village P.O.- Kharahatar, P.S.- Simari, District- Buxar.
8. Suresh Yadav Son of Late Narsingh Yadav resident of Village P.O.- Kharahatar, P.S.- Simari, District- Buxar.
9. Chhiteshwar Ram Son of Sri Bishwanath Ram resident of Village and P.O.- Sonbarsha, P.S.- Industrial Buxar, District- Buxar.
10. Umesh Paswan Son of Nemilal Paswan resident of Village and P.O.- Kukurha, P.S.- Itarhi, District- Buxar.
11. Parashuram Prasad Son of Sri Dwarika Prasad resident of Village- Purushotampur, P.O.- Unwas, P.S.- Itarhi, District- Buxar.
12. Nirmal Kumar Prasad Son of Sri Ambika Prasad resident of Village- Chandpura, P.O.- Hathinpur, P.S.- Brahmpur, District- Buxar.
13. Girija Prasad Pal Son of Late Ram Chandrama Prasad Singh resident of Village- Purushotampur, P.O.- Unwas, P.S.- Itarhi, District- Buxar.
14. Anita Kumari Mishra D/o Murlidhar Mishra, Wife of Sri Ajay Kumar Pathak



- resident of Village and P.O.- Dumaraw, P.S.- Dumaraw, District- Buxar.
15. Kamala Kumar D/o Late Bhatar Prasad Singh, wife of Krishna Prasad resident of Village and P.O.and P.S.- Dumaraw, District- Buxar.
 16. Anita Devi Wife of Sri Manoj Singh, D/o Late Kedar Singh resident of Village and P.O.- Gajadharganj, P.S.- Buxar, District- Buxar.
 17. Raj Grihi Singh Son of Late Shivji Singh resident of Village and P.O.- Nandan, P.S.- Dumaraw, District- Buxar.
 18. Damayanti Devi Wife of Ramji Singh Yadav, D/o Baidyanath Singh resident of Village and P.O.- Kopawaon, P.S.- Koransaray, District- Buxar.
 19. Bishwanath Singh Son of Late Raj Bihari Singh resident of Village and P.O.- Kopawaon, P.S.- Koransaray, District- Buxar.
 20. Abadul Gaffar Son of Md. Amanullah resident of Village and P.O.- Sarimpur, P.S.- Industrial Buxar, District- Buxar.
 21. Ram Krishna Mishra Son of Sri Triloki Nath Mishra resident of Village- Chandpura, P.O.- Hathinpur, P.S.- Brahmpur, District- Buxar.
 22. Shivjee Singh Yadav Son of Ram Naresh Singh resident of Village- Akalupur, P.O.- Hariyana Form Dumaraw, P.S.- Krishnabrahm, District- Buxar.
 23. Neelam Kumari Wife of Ravi Ranjan Kumar resident of Village and P.O.- Dumari, P.S.- Simari, District- Buxar.
 24. Vijay Shankar Tiwary Son of Late Bhagwan Tiwary resident of Village and P.O.- Thoripandepur, P.S.- Murar, District- Buxar.
 25. Satya Narayan Pandey Son of Late Lalan Pandey resident of Village and P.O.- Chilahari, P.S.- Dumaraw, District- Buxar.
 26. Pushpa Singh Wife of Madho Singh, Daughter of Late Krishna Kumar Singh resident of Village- Hospital Road Civil Line Buxar, P.O.and P.S.- Buxar Town, District- Buxar.
 27. Shankarjee Prasad Son of Mangal Ram resident of Village- Akdar, P.O.- Hathilpur, P.S.- Brahmpur, District- Buxar.
 28. Ajit Kumar Singh Son of Late Bihari Singh resident of Village- Kritpura Pokharaha, P.O.- Kamarpur, P.S.- Buxar Muffasil, District- Buxar.
 29. Meera Kumari @ Meera Devi D/o Jawahar Lal Thakur resident of Village- Maharajganj, P.O.- Devkuli, P.S.- Brahmpur, District- Buxar.
 30. Manti Devi D/o Late Dinanath Mishra, Wife of Saroj Upadhyay resident of Village and P.O.- Baikunthpur, P.S.- Sikraul, District- Buxar.
 31. Meera Kumari D/o Sri Amar Nath Tiwary, Wife of Sri Sunil Kumar Pathak resident of Village and P.O.- Nenua, P.S.- Dumaraw, District- Buxar.
 32. Chandrawati Devi @ Chandrawati Kumari D/o Late Shiv Chandra Shukla, W/o Ramendra Ojha resident of Village- Raghunathpur, P.O.- Raghunathpur, P.S.- Brahmpur, District- Buxar.
 33. Ram Kishor Tiwary Son of Late Indradeo Tiwary resident of Village and P.O.- Nenua, P.S.- Dumaraw, District- Buxar.
 34. Rameshwar Ram son of Late Daroga Ram resident of Village and P.O.- Osai, P.S.- Bihiya, District- Bhojpur.



35. Gupteshwar Prasad Son of Sri Ram Prasad Ram resident of Village P.O.- Nagari, P.S.- Charpokhari, District- Bhojpur.
36. Dudheshwar Rai Son of Late Ram Janam Rai resident of Village and P.O.- Nagari, P.S.- Charpokhari, District- Bhojpur.
37. Satyendra Prasad Singh son of Late Bishwanath Singh resident of Village and P.O.- Dhanauti, P.S.- Charpokhari, District- Bhojpur.
38. Shardanand Singh Son of Late Shiv Janam Singh resident of Village and P.O.- Dhanauti, P.S.- Charpokhari, District- Bhojpur.
39. Suresh Rai Son of Sri Deomuni Rai resident of Village- Katharai, P.O.- Siyadih, P.S.- Charpokhari, District- Bhojpur.
40. Pushpa Kumari Wife of Jagdish Singh resident of Village- Baghara Tola, P.S.- Tarara, District- Bhojpur.
41. Saroja Devi Wife of Dinesh Singh resident of Village- Baghara Tola, P.S.- Tarara, District- Bhojpur.
42. Satyendra Pandey Son of Shivjanam Pandey resident of Village- Bharasara, P.O.- Kakila, P.S.- Jagdishpur, District- Bhojpur.
43. Punam Sinha Wife of Radheshyam Prasad Permanent resident of Village and P.O.- Hasan Bazar, P.S.- Piro, District- Bhojpur. at present Muhalla- Bangali Hata Jawahar Tola Mill Road Nawada Ara, P.S.- Ara Nawada, District- Bhojpur.
44. Kiran Devi D/o Mahendra Prasad, W/o Bir Babu Prasad resident of Village- Dumaraw Ward No.2, P.O.P.S.- Dumaraw, District- Buxar.
45. Radha Shankar Mishra Son of Late Shiv Prasad Mishra resident of Village and P.O.- Sowa, P.S.- Krishna Brahm, District- Buxar.
46. Surendra Rai Son of Late Rai resident of Village- Barki Bharauli, P.S.- Nawanagar, District- Buxar.
47. Kismat Rai Son of Kailash Rai resident of Village- Uddiyanganj, P.O.- Chhatnawar, P.S.- Krishna Brahm, District- Buxar.
48. Jag Narayan Yadav Son of Mukhdeo Yadav R/o Village-Bhikshuk Ke Dera, P.O.-Barka Rajpur, P.S.-Simari, District-Buxar
49. Dina Nath Prasad Son of Surya Nath Sah resident of Village- Bhikshuk Ke Dera, P.O.- Barka Rajpur, P.S.- Simari, District- Buxar.
50. Hridyanand Singh Son of Ram Ekbal Singh resident of Village and P.O.and P.S.- Dumaraw, District- Buxar.
51. Kamalesh Kumar Son of Ram Ekbal Singh resident of Village- Khewali, P.O.- Ariyaw, P.S.- Krishna Brahm, District- Buxar.
52. Rupam Kumari Wife of Kamalesh Kumar resident of Village- Khewali, P.O.- Ariyaw, P.S.- Krishna Brahm, District- Buxar.
53. Dina Nath Singh Son of Ram Ekbal Singh resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
54. Lakshmina Kumari D/o Ram Singhashan Singh resident of Village- Dhansoi, P.S.- Rajpur, District- Buxar.
55. Birendra Ram Son of Late Krishna Ram resident of Village- Sonapa, P.O.- Sonapa, P.S.- Rajpur, District- Buxar.



56. Shiv Kumari Devi Wife of Rama Shankar Paswan resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
57. Vishwa Mitra Ram Harijan Son of Chandrama Ram resident of Village and P.O.- Ariyaw, P.S.- Krishna Brahm, District- Buxar.
58. Lorik Yadav Son of Dharikshan Yadav resident of Village- Akdar, P.O.- Hathilpur, P.S.- Brahmpur, District- Buxar.
59. Manoranjan Prasad Son of Late Braj Mohan Lal resident of Village and P.O.- Gaharua, P.S.- Tarari, District- Bhojpur.
60. Manoj Kumar Gupta Son of Late Ram Janam Prasad resident of Village- Musafirganj, P.O.- Gajadharganj, P.S.- Buxar Town, District- Buxar.
61. Anita Devi Wife of Ashutosh Pandey resident of Village- Bakulaha Semari, P.O. and P.S.- Semari, District- Buxar.
62. Sunaina Yadav Wife of Sarvadeo Yadav resident of Village- Tawakal Rai Ke Dera, P.O.- Chhotaka Rajpur, P.S.- Semari, District- Buxar.
63. Bhagmani Devi Wife of Satya Narayan Pandey resident of Village- Bakulahapatti Simri, P.O. and P.S.- Simri, District- Buxar.
64. Jiut Paswan resident of Village- Akadar, P.O.- Hathilpur, P.S.- Brahmpur, District- Buxar.
65. Raghwendra Kumar Singh Son of Sri Dadan Singh @ Shaligram Singh resident of Village- Umedmur, P.O.- Umedmur, P.S.- Brahmpur, District- Buxar.
66. Phul Kumari Devi Wife of Jitendra Kumar Paswan resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
67. Damodar Ram Son of Late Ramlal Ram resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
68. Dharmdeo Ram Son of Late Lal Bahadur Ram resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
69. Sarvadeo Pandey Son of Late Saryu Prasad Pandey resident of Village- Bairi, P.O.- Mahdah, P.S.- Itarhi, District- Buxar.
70. Punita Devi Wife of Parshuram Pandey resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
71. Prabhat Kumar Pandey Son of Parshuram Pandey resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
72. Seema Kumari Wife of Alok Mishra, D/o Jai Prakash Pandey resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
73. Divesh Kumar Son of Birendra Kumar Pandey resident of Village and P.O.- Dumaraw, District- Buxar.
74. Jyoti Prakash Son of Ram Bhajan Singh resident of Village and P.O.- Chanwath, P.S.- Nawanagar, District- Buxar.
75. Arvind Prasad Singh Son of Shivmuni Singh resident of Village and P.O.- Katiknar, P.S.- Nawanagar, District- Buxar.
76. Madhubala Wife of Bhuneshwar Prasad resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.



77. Sri Niwas Tiwary Son of Ganesh Tiwary resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
78. Madan Kumar Son of Prayagnath Upadhyay R/o Village-Lalganj Karani, P.O. and P.s.-Dumaraw, District Buxar
79. Manoj Tiwary Son of Bishwanath Tiwary R/o Vilalge and P.O. and P.s.- Dumaraw, District-Buxar
80. Ramita Devi @ Ramita Kumari Wife of Dinanath Ojha R/o Village-Kachainiya, P.O.-Ayar, P.s.-Koransaray, District-Buxar
81. Ajay Kumar Son of Tej Narayan Singh R/o Vilalge and P.o. and P.s.- Dumaraw, District-Buxar
82. Sanjeev Kumar Son of Tej Narayan Singh R/o Village and P.O. and P.s.- Dumaraw, District-Buxar
83. Aman Kumar Son of Alakh Niranjn Singh resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
84. Anita Singh D/o Trilokinath Singh resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
85. Chandra Shekhar Lal Srivastava Son of Madan Lal Srivastava resident of Village and P.O. and P.S.- Dumaraw, District- Buxar.
86. Gita Devi Wife of Suresh Kumar Singh resident of Village- Hari Tola Katiknar, P.O.- Katiknar, P.S.- Nawanagar, District- Buxar.
87. Usha Devi D/o Late Ram Ram Choubey resident of Village- Kharagpur, P.O.- Shivpur, P.S.- Nawanagar, District- Buxar.
88. Rajesh Kumar Son of Phirangi Ram Paswan resident of Village- Kulmanpur, P.O.- Shivpur, P.S.- Nawanagar, District- Buxar.
89. Satyendra Prasad Singh Son of Tilak Prasad Singh resident of Village-Biriya, P.O.- Akauni, P.S.- Dumaraw, District- Buxar.
90. Rajesh Kumar Ram Son of Late Kundan Das resident of Village and P.O.- Rampur, P.S.- Nawanagar, District- Buxar.
91. Shanti Saha D/o Sri Suresh Kumar, W/o Sri Radha Krishna Ratana resident of Village- Pipra Bazar, P.O.P.S.- Pipra Bazar, District- Supaul.
92. Bindu Devi @ Bindu Kumari D/o Brahmanand Yadav resident of Village-Chakki, P.S.- Chakki, District- Buxar.
93. Shail Kumari @ Shail Kumari Devi Wife of Bhrigunath Dubey resident of Village- Nadaw, P.S.- Buxar Muffasil, District- Buxar.
94. Kishori Devi, Wife of Jagdish Prasad resident of VillageP.O.P.S.- Dumaraw, District- Buxar.
95. Punam Devi, Wife of Vijay Pandey resident of Village- Barka Rajpur, P.S.- Simari, District- Buxar.
96. Rama Shankar Pal Son of Bhola Prasad Pal resident of Village- Barkagaon, P.S.- Simari, District- Buxar.
97. Bishram Paswan Son of Late Sudarsan Paswan resident of Village- Jagata, P.S.- Chandi, District- Bhojpur.
98. Phul Kumari Devi Wife of Manoj Paswan R/o Village-Jagata, P.S. Chandi,



District-Bhojpur

99. Anil Kumar Singh Son of Sri Rarm Janam Singh R/o Village-Samhar, P.O. Nenua, P.S. Dumaraw, District-Buxar
- 100 Shobha Devi Wife of Chaman Dwedi R/o Village and P.O.-Barka Rajpur, P.s. Simari, District-Buxar
- 101 Kanhaiya Son of Late Bharat Singh R/o Village-Karuaj, P.S. Dumaraw, District-Buxar
- 102 Laxmi Mishra D/o Mahesh Tiwary R/o Village-Nandanpur, P.s.-Brahmpur, District-Buxar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Shilpa Singh, G.A. 12
Ms. Abhanjalli, A.C. to G.A. 12
For the Opposite Party/s : Mr.

CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL JUDGMENT

Date : 24-08-2022

Since the order under review was passed with the consent of the parties, no interference is required in the present case, however, it has been pointed out by the learned counsel for the petitioners that against the order dated 03.03.2017 passed in C.W.J.C. No. 384 of 2017 (Harendra Mishra & Ors. vs. The State of Bihar & Ors.), the State Government had preferred an appeal bearing L.P.A. No. 1047 of 2017, however, the same had stood dismissed vide order dated 23.01.2018 and on the basis of the said two orders dated 03.03.2017 and 23.01.2018, the writ petition in question i.e. CWJC No. 7542 of 2017 and other analogous cases were disposed of vide order dated 07.02.2018, with the consent of the parties. It is further submitted that the aforesaid appeal of the State Government bearing L.P.A. No.



1047 of 2017 was dismissed vide order dated 23.01.2018, taking into account the order dated 25.01.2017 passed in M.J.C. No. 3765 of 2018 (Meera Kumari & Ors. Vs. The State of Bihar & Ors.), against which the State Government had preferred a Special Leave Petition before the Hon'ble Apex Court bearing S.L.P. (C) No. 19893 of 2021, which was subsequently converted into Civil Appeal No. 7351 of 2021. In the meantime, the State Government had preferred a review petition for review of the aforesaid order dated 23.01.2018 passed in L.P.A. No. 1047 of 2017 and the same has been numbered as Civil Review No. 59 of 2018 (The State of Bihar & Ors. vs. Harendra Mishra & Ors.). In the said Civil Review No. 59 of 2018, the learned Division Bench of this Court by an order dated 27.06.2018 has directed for listing of the said Civil Review petition after disposal of the S.L.P. filed by the State of Bihar against the order passed in M.J.C. No. 3765 of 2016 and till then it has been directed that the implementation of the order dated 23.01.2018 passed in L.P.A. No. 1047 of 2017 shall be kept in abeyance.

2. It is submitted that the aforesaid S.L.P. (C) No. 19893 of 2021 (Civil Appeal No. 7351 of 2021), filed by the State of Bihar has finally been allowed and the impugned order dated 25.01.2017 passed in M.J.C. No. 3765 of 2016 has been



set aside by a Judgment dated 02.12.2021. In this regard, it would be apt to refer to the relevant paragraphs of the said judgment dated 02.12.2021 herein below:-

“By the impugned order, an application which was styled as a miscellaneous application seeking modification of order dated 11.08.2015 has been disposed of in the following manner:

“2. The grievance of the petitioners is that the relief granted in those proceedings are only being extended to persons who were parties in those proceedings even though there are others who are identically situated but they are not being treated similarly.

3. To us, problem is simple. The Apex Court, in the case of Ashwani Kumar & Others-Versus-State of Bihar& Others since reported in AIR 1997 Supreme Court 1628, in paragraph 17, has clearly held that all persons, similarly situated, whether they have moved the Court or not, must be similarly treated. Those, who were waiting in the wings, cannot be denied the relief which is granted by the Court unless the relief is personal to the person. In our view, similar is the provision of Clause 4(c) of the Bihar State Litigation Policy which clearly envisages that note very body is required to move the Court. Persons, in similar circumstances, must be treated similarly.

4. In that view of the matter, all we say is if the authorities find that the petitioners are similarly circumstanced to the other persons, they would be similarly treated.

5. This application is, accordingly, disposed of with the aforesaid direction.

6. IAs No 4666 and 7159 of 2016 are also allowed.”



It is necessary to refer to certain facts. A scheme was introduced by the Central Government introducing program for imparting elementary education to the students. As part of the scheme, Centers for Non-Formal Education were contemplated. To operate such centers, instructors and center supervisors were contemplated. Under the scheme, several persons were employed in these categories. Thereafter, the scheme was finally closed in the year 2001. The Government decided to absorb the supervisors. Instructors, however, were not treated similarly. This led to a spate of litigation at the instance of the Instructors. By order dated 11.08.2015, the High Court gave certain directions for rehabilitating the instructors as well subject to certain conditions which have been indicated therein. This order, in turn, came to be challenged before this Court.

The order of this Court dated 26.02.2016 is significant and it reads as follows:

“We find no infirmity in the order impugned herein. The Special Leave Petitions are dismissed. The relief granted by the High Court shall be restricted to those who approached the High Court who were heard as well as who wanted to get themselves impleaded and those who have filed applications here at par with those former as well as all those petitioner Instructors which are pending as on date before the High Court but shall not apply to any fresh case either here or before the High Court. Pending applications, if any, stand disposed of.”

We are of the view that the order passed by this Court dated 26.02.2016 is an order which binds both the State and the Courts including the High Court. It is for the reason that the Court has clearly, while upholding the order dated 11.08.2015, confined the benefit granted vide order to only those persons who have been mentioned specifically in the order.



We notice from the impugned order passed by the High Court that the High Court has not specifically referred to the order passed by this Court dated 26.02.2016 and therefore, not considered the case in the light of the order dated 26.02.2016. We are of the clear view that the order of this Court dated 26.02.2016 cannot be deviated from by the High Court. We think that the High Court has erred in referring to certain general principles by holding that all persons similarly situated whether they have moved the Court or not must be similarly treated. This finding is in teeth of the clear terms of the order passed by this Court dated 26.02.2016.

In the light of this, the course that this Court must adopt is, since the matter is a live issue, even from the point of view of the averments seeking modification, the matter must receive the attention of the High Court in the light of the order passed by this Court on 26.02.2016. As noted already, certain petitions at the hands of Unions have attained finality. Matters which have attained finality cannot be reopened. At the same time, if there are persons who fall within the four walls of the order dated 26.02.2016, they may be entitled to relief as envisaged. Accordingly, we allow the appeals and set aside the impugned order. The matter will be considered by the High Court in the light of our observations and with specific reference to the order dated 26.02.2016. We make it clear that the matters which have become final cannot be reopened.”

3. In such view of the matter, it is submitted that now the aforesaid Civil Review No. 59 of 2018 is ripe for hearing and is also being listed from time to time before the learned Division Bench of this Court.

4. Having regard to the facts and circumstances of the case as also in view of the fact that the judgment passed by the



learned Division Bench of this Court in L. P. A. No. 1047 of 2017 i.e. the one dated 23.01.2018, which was the basis for disposing of the original writ petition of the present case, has been stayed by the learned Division Bench of this Court by an order dated 27.06.2018 passed in Civil Review No. 59 of 2018, the consequences have to follow, hence, there is no need for issuing notice to the private respondents and, therefore, the matter is now required to be governed not only by the judgment dated 02.12.2021 passed by the Hon'ble Apex Court in Civil Appeal No. 7351 of 2021 (The State of Bihar & Ors. vs. Meera Kumari & Ors.), but also by the final outcome of the aforesaid Civil Review No. 59 of 2018, which is pending adjudication before the learned Division Bench of this Court.

5. Consequently, the present review petition stands disposed of on the aforesaid terms.

(Mohit Kumar Shah, J)

Tiwary/-

AFR/NAFR	NAFR
CAV DATE	N/A
Uploading Date	27-08-2022
Transmission Date	N/A

